



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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### **22 VAC 40-135 – State Board of Social Services Treatment Foster Care Standards for Child Placing Agencies February 14, 2003**

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

### **Summary of the Proposed Regulation**

The proposed regulations will consolidate treatment foster care minimum standards and Medicaid reimbursement requirements and clarify some of the requirements currently enforced. In addition, training, monitoring, and reporting requirements will be established for the use of physical restraint. The maximum number of children the foster care parents can care for will also be reduced. Finally, the proposed changes will establish numerous minor administrative rules for the child placement agencies.

### **Estimated Economic Impact**

These regulations contain treatment foster care standards for private child placing agencies. Treatment foster care is a model of care for children with special treatment needs. It combines elements of traditional foster care and residential treatment facilities. Treatment foster parents are trained to deal with and treat serious emotional, behavioral, mental, and medical problems the children may have. This type of care and treatment is generally more effective and less costly than the care provided in an institution or in a residential setting such as a group

home. Currently, there are 25 private treatment foster care placing agencies and about 600 foster care parents in the Commonwealth serving approximately 700-900 children. Majority of children are between the ages of 11 to 15, but there are younger and older ones as well.

The current treatment foster care standards apply only to private child placement agencies whereas public agencies are currently not subject to any formal regulatory requirements unless they would like to receive reimbursement from Medicaid. There does not seem to be a sound economic basis for having minimum standards for private agencies, but not for public agencies. If the current standards protect safety and well being of privately placed children in treatment foster care, then requiring public agencies to comply with the same standards may increase potential benefits. If, on the other hand, the compliance costs with these regulations do not justify the expected benefits, they should not apply to private placement agencies as well. Thus, distinguishing between the types of placement agencies in determining the applicability of these standards seems to pose a significant contradiction. This distinction is probably costly either because it foregoes potential benefits by excluding public agencies, or because it introduces costs on private agencies that do not justify the benefits.

Currently, treatment foster care providers are subject to two sets of regulations. Providers are primarily subject to the State Board of Social Services licensing regulations (22 VAC 40-130). If the care is provided through Medicaid funds for some children, providers are also subject to the regulations promulgated by the Department of Medical Assistance Services (12 VAC 30-130). The proposed regulations will consolidate these two sets of regulations into one. Therefore, all private child placing agencies providing treatment foster care will be subject to the same standards whether or not they apply for certification as a Medicaid enrolled provider of treatment foster care services. According to the providers and the department, about 20% to 50% of treatment foster care children receive services through Medicaid.

Medicaid regulations contain many standards for the placing agencies such as rules for the maximum caseloads for the child-placing agency employees, descriptions of responsibilities for the caseworker, pre-admission requirements, treatment service planning requirements, training requirements for the foster parents, etc. Since most placing agencies providing treatment foster care serve Medicaid eligible children and are subject to these requirements, they currently incur the full compliance costs associated with serving not only the Medicaid funded

children, but all of the children. However, these Medicaid rules appear to establish minimum standards to ensure a certain service quality for the children and consequently have the potential to provide some benefits. Although, it is not known whether the benefits exceed the costs, these changes are unlikely to create a significant economic effect on providers, as most are subject to these Medicaid standards under the current regulations.

Most of the other requirements are clarifications of the current requirements enforced under the state and federal laws or the departmental policy. These clarifications are not expected to have a significant economic effect, as they are not likely to change the enforcement of the regulations in practice.

Some other proposed changes will establish training, monitoring, and reporting requirements for providers who wish to use physical restraint. Physical restraint is used as a therapeutic intervention technique to restrict body movements for a short period of time. The department is aware of only two or three agencies currently using physical restraint, but believes that the actual use of physical restraint in practice is probably much higher. Consistent with the federal regulations, these agencies will be required to develop a manual addressing the procedures that must be followed and continually train their staff and foster parents about the use of physical restraint. Additionally, every instance of physical restraint will have to be reported to the child's custodian, which in most cases is a local department of social services and will have to be monitored by a professional agency staff. The proposed documentation, training, reporting, and monitoring related to the use of physical restraint will most likely introduce some additional costs to the placing agencies and the department in terms of staff time. These requirements may also discourage some families from becoming treatment foster parents. The department is aware of the potential costs and plans to enforce compliance with these requirements in a less intrusive manner to reduce costs as much as possible. For example, alternate ways of enforcing compliance with monitoring requirement (e.g. through telephone) and alternate ways of providing training (e.g. through videotapes, in-class training, etc.) are currently being considered. On the other hand, these new requirements have the potential to improve the safety and well being of children who are subject to physical restraint.

The proposed regulations will also reduce the foster home capacity (sum of all children receiving regular and treatment foster care services) from eight to six children for two-parent

foster home, from eight to four children for single parent foster home, and establish a new requirement that the number of children receiving treatment foster home care must not exceed two except for special cases. For most treatment foster homes these requirements are not anticipated to be restrictive, as many do not have the maximum number of children allowed currently. One of the placement agencies with approximately 24 foster parents indicated that only one parent currently has more than two treatment foster care children under their care and will be required to reduce this number to two in order to comply with this requirement if none of the exemptions apply. Although this requirement will probably not have a widespread effect on foster parents, some of the treatment foster children will have to be removed from their current family foster homes. This will reduce the chances of a children with special needs being placed in a foster home and may reduce the incentives to be treatment foster parents as a result of the reduction in the reimbursement they receive. These effects will likely promote more children being placed in group homes or other residential settings where the costs are much higher. However, this change will also strengthen the ability of a foster parent to provide better supervision, assistance, and care to children under their care.

Many other changes introduce minor requirements for placement agencies and foster parents. None of these requirements are expected to create a very significant economic effect individually, but may create somewhat significant costs when combined all together. These changes include (i) listing the elements that should be present in a first aid kit in the home and documenting compliance with the list periodically, (ii) verifying and documenting that the animals in the house are vaccinated and that the vehicles used to transport children have a valid license and inspection sticker, (iii) requiring that a reference should be sought from employers of a new treatment foster parent if the previous employment is relevant to treatment foster care, (iv) documenting the location of the telephone in the home, (v) providing supervision by an adult when the parents are out of home, etc. In aggregate, these requirements will introduce somewhat significant administrative costs to placing agencies and may discourage some of the families becoming treatment foster parents. On the other hand, they have the potential to improve the enforceability of the regulations and to improve safety and well being of the children under treatment foster care.

## **Businesses and Entities Affected**

The proposed regulations apply to 25 treatment foster care placing agencies and approximately 600 foster home parents.

## **Localities Particularly Affected**

The proposed regulations are not anticipated to affect any locality more than others.

## **Projected Impact on Employment**

The proposed regulations may increase the staffing needs of the placing agencies and the department to ensure compliance with the proposed new standards.

## **Effects on the Use and Value of Private Property**

There may be some negative effect on the value of the 25 child placing agencies due to increased compliance costs and the reduced profitability.